Draft Regulations laid before Parliament under section 62(3) of the Regulatory Enforcement and Sanctions Act 2008 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2021 No. 0000

FOOD, ENGLAND

The Calorie Labelling (Out of Home Sector) (England) Regulations 2021

Made - - - -	***
Coming into force - -	*6th April 2022*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 6(4), 16(1)(e) and (f), 26(3) and 48(1) of the Food Safety Act 1990(**a**), and by sections 36, 39, 52, 54, 55 and 62(2) of the Regulatory Enforcement and Sanctions Act 2008(**b**).

The Secretary of State has had regard to relevant advice given by the Food Standards Agency in accordance with section 48(4A) of the Food Safety Act 1990(**c**).

There has been consultation, as required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, during the preparation and evaluation of these Regulations.

The Secretary of State has carried out consultation in accordance with section 60 of the Regulatory Enforcement and Sanctions Act 2008.

The Secretary of State is satisfied, in accordance with section 66 of that Act, that food authorities(**d**) (who are the regulators for the purpose of these Regulations) will act in accordance with the principles referred to in section 5(2) of that Act in exercising a power to impose civil sanctions conferred by these Regulations.

In accordance with section 62(3) of that Act, a draft of these Regulations has been laid before, and approved by resolution of, each House of Parliament.

(**a**) 1990 c. 16. Sections 16 and 48(1) were amended by paragraphs 7 and 8 of Schedule 5 to the Food Standards Act 1999 (c. 28). There are other amendments to section 16 not relevant to these Regulations. Section 26(3) was amended by Schedule 6 to that Act.

(**b**) 2008 c. 13. Section 39 was amended by S.I. 2015/664. There is an amendment to section 36 which is not relevant to these Regulations.

(**c**) Subsection (4A) was inserted by paragraph 21 of Schedule 5 to the Food Standards Act 1999.

(**d**) "Food authority" is defined in section 5 of the Food Safety Act 1990. There are amendments to the definition which are not relevant to these Regulations.

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Calorie Labelling (Out of Home Sector) (England) Regulations 2021.

(2) These Regulations extend to England and Wales, but apply to England only.

(3) These Regulations come into force on 6th April 2022.

Interpretation

2. In these Regulations—

"care home" has the meaning given in section 3 of the Care Standards Act 2000(**a**);

"exempt food" has the meaning given in regulation 4;

"fixed monetary penalty" has the meaning given in paragraph 2(3) of the Schedule;

"military establishment" means an establishment intended for use for naval, military or air force purposes or for the purposes of the Department of the Secretary of State responsible for defence;

"mobile application" means application software designed and developed for use on mobile devices such as smartphones and tablets;

"prepacked food" has the meaning given in Article 2(2)(e) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers ("Regulation (EU) No 1169/2011"), and does not include—

(a) food packed at a consumer's request at the premises where it is purchased, or

(b) food which is prepacked for direct sale to a consumer;

"prepacked for direct sale" has the same meaning as in Article 2(2)(e) of Regulation (EU) No 1169/2011;

"qualifying business" has the meaning given in regulation 7;

"remote provider" has the meaning given in regulation 6(2);

"social care" has the meaning given in section 9(3) of the Health and Social Care Act 2008(**b**).

Food to which these Regulations apply

3.—(1) These Regulations apply to food(**c**) which—

(a) is offered for sale in a form which is suitable for immediate consumption,

(b) is not prepacked food, and

(c) is not exempt food.

(2) For the purposes of these Regulations, food is to be considered to be in a form which is suitable for immediate consumption if it satisfies Condition A or Condition B.

(3) Condition A is that the food is offered for sale at a café, restaurant or other premises selling food for consumption on the premises.

(4) Condition B is that the food—

(a) is offered for sale(**d**) by a business(**e**) for consumption off the premises(**f**), and

(b) does not require any preparation by the consumer before it is consumed.

(5) For the purposes of this regulation, "preparation" includes—

(**a**) 2000 c. 14. There are amendments to section 3 which are not relevant to these Regulations.
(**b**) 2008 c. 14.
(**c**) "Food" has the meaning given in section 1 of the Food Safety Act 1990. The definition was amended by S.I. 2004/2990.
(**d**) "Sale" has the extended meaning given in section 2 of the Food Safety Act 1990.
(**e**) "Business" has the meaning given in section 1 of the Food Safety Act 1990.
(**f**) "Premises" has the meaning given in section 1 of the Food Safety Act 1990.

(a) peeling, hulling or washing,

(b) cooking,

(c) thawing frozen food, and

(d) heating or reheating pre-cooked food.

Exempt food

4.—(1) For the purposes of these Regulations, food is "exempt food" if paragraph (2), (3), (4) or (6) applies.

(2) This paragraph applies to—

(a) condiments provided to be added by a consumer to their food (but not including condiments forming part of the food served to the consumer);

(b) food which is included on a menu for less than—

(i) 30 consecutive days, and

(ii) a total of 30 days in any calendar year;

(c) drinks containing more than 1.2% by volume of alcohol;

(d) food provided, otherwise than for payment, to patients at a hospital or other medical establishment or to residents or other service users at a care home or other institution providing social care;

(e) food provided at an institution providing education to pupils below the age of 18;

(f) food which is not included on a business's menu or otherwise offered by that business, and is, at the express request of a consumer—

(i) made available to the consumer, or

(ii) prepared by the business for the consumer differently to the way that food is usually prepared by the business.

(3) This paragraph applies to food which—

(a) is offered for sale by a business for consumption off the premises, and

(b) comes within one of the following categories—

(i) fresh fruit or vegetables, including potatoes, which have not been peeled, cut or similarly treated, provided that they are not—

(aa) added to other food, or

(bb) offered for sale as an ingredient in food consisting of more than one ingredient;

(ii) unprocessed products consisting of a single ingredient which do not come within paragraph (i);

(iii) loaves of bread or baguettes;

(iv) fish, meat or cheese, provided that the fish, meat or cheese is not—

(aa) added to other food, or

(bb) offered for sale as an ingredient in food consisting of more than one ingredient.

(4) This paragraph applies to food which is—

(a) provided by a charity, in the course of its charitable activities, free, or for a price which is less than the cost of providing that food, or

(b) offered for sale by or on behalf of a charity, at a single event, to raise funds for its charitable activities.

(5) For the purposes of paragraph (4)—

(a) "charity" has the meaning given by section 1 of the Charities Act 2011(**a**);

(b) "charitable activity" means an activity carried out for a charitable purpose, other than primarily for the purpose of raising funds;

(c) "charitable purpose" has the meaning given by section 2(1) of the Charities Act 2011.

(6) This paragraph applies to food which is served—

(a) by the armed forces to a member of the armed forces otherwise than at a military canteen, and for these purposes, "military canteen" means a canteen at a military establishment, the purpose of which is to provide food to members of the armed forces stationed at that establishment, or

(b) on an international aircraft, an international train, or an international ferry, and for these purposes, an aircraft, train or ferry is "international" if it is travelling to or from a country which is not part of the United Kingdom.

Duty to display calorie information

5.—(1) A qualifying business offering for sale food to which these Regulations apply must—

(a) display the information specified in paragraph (2) in accordance with this regulation at the point at which the consumer chooses what food to buy, and

(b) where the food is offered for sale on a website or through a mobile application, provide that information for display in accordance with regulation 6.

(2) The information which must be displayed under paragraph (1) is—

(a) the energy content—

(i) of a single portion of the food, or

(ii) if the item purchased by the consumer has been prepared by the business for consumption by more than one person, of the whole item,

in kilocalories, followed by the letters "kcal",

(b) the size of the portion to which the information in sub-paragraph (a)(i) relates, or the number of people for whom the item referred to in sub-paragraph (a)(ii) has been prepared, and

(c) subject to paragraph (3), the statement that "adults need around 2000 kcal a day".

(3) The statement referred to in paragraph (2)(c) does not need to be included—

(a) in a menu which only includes food for children, or

(b) on a page in a menu if the page only includes food for children.

(4) The information referred to in paragraph (2)(a) and (b) must, unless regulation 6 applies, be displayed—

(a) where food is chosen from a menu—

(i) on the menu, next to the description or the price of the food concerned, and

(ii) so as to comply with paragraph (8), and

(b) subject to paragraph (6), where food is chosen from items on display—

(i) on a label identifying the food concerned, next to, or in close proximity to, each item of food which may be chosen, displayed in a position which ensures that the label can be read by a person choosing that food, and

(ii) so as to comply with paragraph (8).

(5) The statement referred to in paragraph (2)(c) must, unless regulation 6 applies, be displayed—

(**a**) 2011 c. 25.

(a) where food is chosen from a menu—

(i) once on every page in the menu (and where the menu is a double-sided card, on each side of the card),

(ii) where the menu is displayed on a board, in a position on the board which ensures that the statement can be seen and read by a person looking at the board, and

(iii) so as to comply with paragraph (8);

(b) otherwise, subject to paragraph (6)—

(i) in a prominent position, which ensures that the statement will be seen and read by anyone purchasing food from the business at the point at which they choose what food to buy, and

(ii) so as to comply with paragraph (8).

(6) Where food to which these Regulations apply is prepacked for direct sale to the consumer, the information referred to in paragraph (2) may be included on the packaging—

(a) in a position, and

(b) in a type and style of lettering, colour, size and background,

which ensures that the information can be seen and read by a person choosing that food.

(7) A qualifying business does not contravene this regulation if it provides a menu to a consumer which does not display the information required by paragraph (2) ("the required information") provided that—

(a) the business only offers the consumer a menu which contains the required information, and

(b) a menu without the required information is only provided to a consumer at the express request of the consumer.

(8) A display of information or a statement complies with this paragraph if it is—

(a) easily visible,

(b) clearly legible, and

(c) not in any way hidden or obscured by—

(i) any other written or pictorial matter, or

(ii) any other intervening material.

Food offered for sale on a website or through a mobile application

6.—(1) This regulation applies to food which is offered for sale in England on a website or through a mobile application.

(2) The business responsible for the website or mobile application ("the remote provider") must ensure that—

(a) the information required by regulation 5(2)(a) and (b) is displayed—

(i) as part of the description of each item of food which is offered for sale on that website or through that mobile application, except for food which is provided by a business which is not a qualifying business, and

(ii) so as to comply with regulation 5(8), and

(b) the information set out in regulation 5(2)(c) is displayed on the page of the website or mobile application where the consumer chooses what food to buy.

(3) If the food offered for sale on that website or through that mobile application is provided by a qualifying business other than the remote provider, the qualifying business must give the remote provider the information set out in regulation 5(2)(a) and (b) for display on the website or mobile application.

Qualifying businesses

7.—(1) For the purposes of these Regulations, a business is a qualifying business during a financial year if—

(a) on the first day of that financial year the business has 250 or more employees, and

(b) the business is not an exempt business during that financial year.

(2) A business is an exempt business if it is one of the following institutions, unless paragraph (3) applies—

(a) an educational institution, within the meaning of paragraph 1(11) of Schedule 16 to the Coronavirus Act 2020(**a**), other than an institution providing education to pupils below the age of 18;

(b) a canteen at a work-place the purpose of which is to provide food to employees in that work-place;

(c) a military establishment or criminal justice accommodation;

(d) a hospital or other medical institution;

(e) a care home or other institution providing social care.

(3) This paragraph applies if any catering services at the institution in question are provided by another business having 250 or more employees.

(4) For the purposes of determining how many employees a business has, a business that is carried on pursuant to a franchise agreement is to be treated as part of the business of the franchisor and not as a separate business carried on by the franchisee.

(5) For the purposes of paragraph (4), a "franchise agreement" exists where one undertaking ("the franchisee") and another undertaking ("the franchisor") agree that the franchisee carries on a business activity which includes the sale of food ("the franchise business"), and paragraph (6) applies to the franchise business.

(6) This paragraph applies to a franchise business if—

(a) subject to paragraph (7), the food provided in the franchise business,

(b) the internal or external appearance of the premises where the franchise business is carried on, and

(c) the business model used for the operation of the franchise business,

are agreed by the franchisor, and is similar to those of other undertakings in respect of which the franchisor has entered into a franchise agreement.

(7) Paragraph (6) does not apply to a franchise business if the franchise agreement is limited to the alcohol provided in the franchise business and the franchisee is free to determine what other food is provided.

(8) For the purposes of this regulation—

(a) the employees of a business are the persons who are employed for the purposes of the business;

(b) "employee" means an individual who has entered into, or works under, a contract of employment, whether that contract is for full-time or part-time employment;

(c) "contract of employment" means a contract of service, whether express or implied, and, if it is express, whether oral or in writing;

(d) "criminal justice accommodation" means—

(i) a prison, within the meaning of the Prison Act 1952(**b**),

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(**a**) 2020 c. 7.

(**b**) 1952 c. 52. The definition of "young offender institutions" was inserted by paragraph 11 of Schedule 15 to the Criminal Justice Act 1988 (c. 33), and amended by section 18 of the Criminal Justice and Public Order Act 1994 (c. 33) and paragraph 3 of Schedule 26 to the Criminal Justice and Immigration Act 2008 (c. 4). The definition of "secure training centres" was substituted by paragraph 6 of Schedule 8 to the Crime and Disorder Act 1988 (c. 37), and amended by

(ii) a young offender institution, within the meaning of section 43 of that Act,

(iii) a secure training centre, within the meaning of section 43 of that Act,

(iv) approved premises, within the meaning of section 13 of the Offender Management Act 2007(**a**), or

(v) a bail hostel, within the meaning of section 2 of the Bail Act 1976(**b**).

Enforcement

8. Each food authority(**c**) must enforce and execute these Regulations within their area.

Improvement notice

9.—(1) If an authorised officer(**d**) of a food authority has reasonable grounds for believing that a qualifying business is failing to comply with regulation 5 or 6, the authorised officer may, by a notice served on the proprietor of that qualifying business (an "improvement notice")—

(a) state the officer's grounds for believing that the qualifying business is failing to comply with regulation 5 or 6,

(b) specify the matters which constitute the qualifying business's failure so to comply,

(c) specify the measures which, in the officer's opinion, the proprietor must take in order to secure compliance, and

(d) require the proprietor to take those measures, or measures that are at least equivalent to them, within such period (not being less than 14 days) as may be specified in the notice.

(2) Any person who fails to comply with an improvement notice is guilty of an offence.

Civil sanctions

10. The Schedule makes provision for fixed monetary penalties.

Guidance as to fixed monetary penalties

11.—(1) Each food authority must publish guidance containing information as to—

(a) the circumstances in which a fixed monetary penalty is likely to be imposed under these Regulations,

(b) the circumstances in which it may not be imposed,

(c) the amount of the penalty,

(d) how liability for the penalty may be discharged and the effect of discharge, and

(e) a person's rights to make representations and objections and their rights of appeal.

(2) The food authority must revise the guidance where appropriate, and publish any revised guidance.

(3) The food authority must consult with such organisations as appear to them to be representative of interests likely to be substantially affected by the guidance before publishing any guidance or revised guidance.

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paragraph 5 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) and paragraph 4 of Schedule 12 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10). There are other amendments to section 43 not relevant to these Regulations.

(**a**) 2007 c. 21.

(**b**) 1976 c. 63. The definition of "bail hostel" was substituted by paragraph 50 of Schedule 9 to the Power of Criminal Courts (Sentencing) Act 2000.

(**c**) "Food authority" is defined in section 5 of the Food Safety Act 1990. There are amendments to the definition which are not relevant to these Regulations.

(**d**) "Authorised officer" is defined in section 6 of the Food Safety Act 1990. The definition was inserted by paragraph 16 of Schedule 16 to the Deregulation and Contracting Out Act 1994 (c. 40) and amended by paragraph 8 of Schedule 5 to the Food Safety Act 1999 (c. 28).

(4) The food authority must have regard to the guidance or revised guidance in exercising their functions under these Regulations.

Publication of enforcement action

12.—(1) Each food authority must publish reports from time to time.

(2) Those reports must specify—

(a) the cases in which a fixed monetary penalty has been imposed by the food authority, except where it has been overturned on appeal, and

(b) the cases in which liability to the fixed monetary penalty has been discharged pursuant to paragraph 4 of the Schedule.

(3) Nothing in this regulation authorises the use or disclosure of personal data where doing so would contravene the data protection legislation, and for these purposes "personal data" and "data protection legislation" have the same meanings as in section 3 of the Data Protection Act 2018(**a**).

Review

13.—(1) In addition to the review carried out under section 67 (review) of the Regulatory Enforcement and Sanctions Act 2008, the Secretary of State must from time to time carry out a review of the regulatory provisions in these Regulations (including the Schedule) and publish a report setting out the conclusions of the review.

(2) The first report must be published before the expiry of the period of five years beginning with the day on which these Regulations come into force.

(3) Subsequent reports must be published at intervals not exceeding five years.

(4) A report published under this regulation must, in particular—

(a) set out the objectives intended to be achieved by the regulatory provisions in these Regulations,

(b) assess the extent to which those objectives are achieved,

(c) assess whether those objectives remain appropriate, and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) In this regulation, "regulatory provision" has the same meaning as in section 32(4) of the Small Business, Enterprise and Employment Act 2015(**b**).

Application of provisions of the Food Safety Act 1990

14.—(1) The provisions of the Food Safety Act 1990 referred to in paragraph (2) apply for the purposes of these Regulations—

(a) as if any reference in those provisions to the Act, or to any Part of the Act, were a reference to these Regulations, and

(b) with any further modifications specified in paragraph (2).

(2) The provisions of the Act applying, as modified, are—

(a) section 20 (offences due to fault of another person),

(b) section 21 (defence of due diligence)(**c**), as if —

(i) subsections (2) to (4) applied in relation to an offence under these Regulations as they apply in relation to an offence under section 15, and

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(**a**) 2018 c. 12.
(**b**) 2015 c. 26.
(**c**) Section 21 has been amended by S.I. 2004/3279.

(ii) in subsection (4)(b) the reference to "sale or intended sale", both times it occurs, included "labelling, advertising or presentation",

(c) section 30(6) and (8) (which relates to documentary evidence),

(d) section 32 (powers of entry),

(e) section 33(1) (obstruction etc. of officers),

(f) section 33(2)(**a**), as if the reference to "any such requirement as is mentioned in subsection (1)(b) above" were a reference to any such requirement as is mentioned in that subsection as applied by this regulation,

(g) section 35(1) (punishment of offences)(**b**), in so far as it relates to an offence under section 33(2) as applied by this regulation,

(h) section 35(2) and (3)(**c**), as if an offence under these Regulations—

(i) were an offence under the Act,

(ii) were not punishable by imprisonment,

(i) section 36 (offences by bodies corporate),

(j) section 36A (offences by Scottish partnerships)(**d**),

(k) section 37 (appeals to magistrates' court or sheriff), as if the reference to an "improvement notice" included an improvement notice issued under these Regulations, and

(l) section 44 (protection of officers acting in good faith).

Name
Secretary of State for Health and Social Care,
Department of Health and Social Care

Date

SCHEDULE

Regulation 10

Fixed Monetary Penalties

Interpretation

1. In this Schedule, references to an authorised officer are to an authorised officer of the enforcement authority(**e**).

Civil sanctions

2.—(1) An authorised officer may by notice impose a fixed monetary penalty on a person in relation to an offence under regulation 9(2).

(2) Before doing so, the officer must be satisfied beyond reasonable doubt that the person has committed the offence.

(3) In this Schedule, "fixed monetary penalty" means a penalty of £2,500.

(**a**) Section 33(2) has been amended by paragraph 3 of the Schedule to the Food (Scotland) Act 2015 (asp 1).
(**b**) Section 35(1) has been amended by paragraph 42 of Schedule 26 to the Criminal Justice Act 2003 (c. 44).
(**c**) Section 35(2) has been amended by S.I. 2015/664. Section 35(3) has been amended by S.I. 2004/3279 and S.I. 2015/664.
(**d**) Section 36A was inserted by paragraph 16 of Schedule 5 to the Food Standards Act 1999 (c. 28).
(**e**) "Enforcement authority" has the meaning give in section 6(1) of the Food Safety Act 1990.

Notice of intent

3.—(1) When an authorised officer proposes to impose a fixed monetary penalty on a person, the officer must serve on that person a notice of what is proposed ("a notice of intent").

(2) The notice of intent must include—

(a) the grounds for the proposal to impose the fixed monetary penalty;

(b) the amount of the penalty;

(c) a statement that liability for the penalty can be discharged by paying 50% of the penalty within 28 days beginning with the day on which the notice was received; and

(d) information as to—

(i) the effect of that discharge payment,

(ii) the right to make representations and objections within 28 days beginning with the day on which the notice of intent was received, and

(iii) the circumstances in which an authorised officer may not impose the fixed monetary penalty (including any defences relating to the offence in relation to which the notice is served).

Discharge of liability

4. Liability for the penalty is discharged if a person who receives a notice of intent pays 50% of the amount of the penalty within 28 days beginning with the day on which the notice was received.

Making representations and objections

5. A person on whom a notice of intent is served may within 28 days beginning with the day on which the notice was received make written representations and objections to the enforcement authority in relation to the proposed imposition of the fixed monetary penalty.

Service of final notice

6.—(1) If the person who has received a notice of intent does not discharge liability for the penalty within the 28 day period referred to in paragraph 4, the authorised officer may serve a final notice imposing a fixed monetary penalty.

(2) The authorised officer may not serve a final notice on a person where the authorised officer is satisfied that the person would not, by reason of any defence, be liable to be convicted of the offence to which the notice relates.

(3) An authorised officer who serves a final notice imposing a fixed monetary penalty may not serve any other notice under these Regulations in relation to the offence.

Contents of final notice

7. A final notice must include information as to—

(a) the amount of the fixed monetary penalty;

(b) the grounds for imposing the penalty;

(c) how payment may be made;

(d) the period of 28 days within which payment must be made;

(e) the early payment discounts and late payment penalties;

(f) rights of appeal; and

(g) the consequences of non-payment.

Discount for early payment

8. If a person who was served with a notice of intent makes representations or objections concerning that notice within the time limit, that person may discharge liability under the final notice by paying 50% of the amount of the penalty within 14 days beginning with the day on which the final notice was received.

Grounds of appeal

9.—(1) The person receiving the final notice may appeal against it.

(2) The grounds for appeal are—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable;

(d) that the decision was wrong for any other reason.

Appeals

10.—(1) An appeal under paragraph 9 is to the First-tier Tribunal.

(2) A final notice is suspended pending the determination or withdrawal of the appeal.

(3) The First-tier Tribunal may—

(a) withdraw, confirm or vary the final notice;

(b) take such steps as an authorised officer could have taken in relation to the act or omission giving rise to the final notice; or

(c) remit the decision whether to confirm the final notice, or any other matter relating to that decision, to an authorised officer.

Non-payment after 28 days

11.—(1) The penalty must be paid within 28 days of receipt of the final notice.

(2) If the penalty is not paid within 28 days the amount payable is increased by 50%.

(3) In the case of an appeal the penalty must be paid within 14 days of the determination of the appeal (if the appeal is unsuccessful), and if it is not paid within 14 days the amount of the penalty is increased by 50%.

Recovery of payments

12. An authorised officer may recover any fixed monetary penalty imposed under this Schedule as if payable under a court order.

Criminal proceedings

13.—(1) If a notice of intent for a fixed monetary penalty is served on a person—

(a) no criminal proceedings for the offence may be instituted against that person in respect of the act or omission to which the notice relates before the expiry of the period of 28 days beginning with the date on which the notice of intent is received; and

(b) if that person discharges liability, that person may not at any time be convicted of the offence in relation to that act or omission.

(2) If a fixed monetary penalty is imposed on a person, that person may not at any time be convicted of the offence in respect of the act or omission giving rise to the penalty.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require qualifying businesses which sell food for immediate consumption, either in a café, restaurant or other catering establishment or as take away food, to provide information relating to the energy content of the food they sell to consumers in kilocalories ("calorie information").

Regulation 3 identifies the food for which calorie information must be displayed.

Regulation 4 defines "exempt food", for which calorie information does not have to be provided.

Regulation 5 sets out the information which must be displayed, and where that information must be displayed. Regulation 6 sets how this information is to be displayed where food is sold on a website or through a mobile application.

Regulation 7 defines "qualifying businesses", which are required to display calorie information in relation to food.

Regulations 8 to 12 and the Schedule to the Regulations provide for the enforcement of the Regulations. Regulation 9 applies section 10 of the Food Safety Act 1990 (c. 16) on improvement notices with modifications. The Schedule provides for fixed monetary penalties. Regulation 13 provides for a review of the Regulations every five years in accordance with the Small Business, Enterprise and Employment Act 2015 (c. 26), and regulation 14 applies a number of other provisions of the Food Safety Act 1990 with modifications.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from https://www.gov.uk/government/consultations/calorie-labelling-for-food-and-drink-served-outside-of-the-home, and from the Department of Health and Social Care at 39 Victoria Street, London SW1H 0EU.

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£6.90

http://www.legislation.gov.uk/id/ukdsi/2021/9780348223538

ISBN 978-0-34-822353-8

9 780348 223538